SEE TEOW CHUAN & ANOR *a*

v.

YAM TUNKU NADZARUDDIN IBNI TUANKU JAAFAR & ORS

HIGH COURT MALAYA, SHAH ALAM *b*
LOW HOP BING J
[SUIT NO: MT3-22-524-1999]
29 JULY 1999

CIVIL PROCEDURE: *Injunction - Interlocutory injunction - Application for extension thereof until hearing of full suit - Factors for consideration - Whether bona fide serious issues to be tried - Whether status quo of plaintiffs to be maintained - Whether if plaintiffs succeed in full trial, decision of court rendered nugatory - Whether justice of case warranted extension of injunction - Whether damages an adequate remedy* *c*

CIVIL PROCEDURE: *Writ of summons - Cause of action - Whether disclosed - Whether a concise statement of nature of claim made or relief or remedy sought sufficient - Rules of the High Court 1980, 0. 6 r. 2(1)(a) - Whether in a claim for declaratory reliefs cause of action need not be disclosed* *d*

CIVIL PROCEDURE: *Parties - Application for extension of interlocutory injunction until hearing of full suit - Whether 2nd plaintiff proper party to proceedings* *e*

All the parties herein were directors of the 5th defendant, a public company ('the company'). The 1st, 2nd, 3rd and 4th defendants sought to remove the plaintiffs from the company. At a board of directors' meeting, the defendants voted in favour of a resolution that the retirement age for executive directors be at the age of 55. The plaintiffs, however, voted against this. Before the minutes of the said meeting were approved and confirmed, the 1st defendant by letter requested the 1st plaintiff to retire on or before 31 May 1999. *f*

The plaintiffs by way of an *ex parte* application applied for and obtained an injunction restraining the defendants from interfering with or restraining the plaintiffs from serving and effectively carrying out their responsibilities in the company. As the said application was fixed for hearing *inter partes*, the plaintiffs, in this instant, sought for an order that the said *ex parte* injunction be extended until the full trial was adjudicated and disposed of. *g* *h*

The plaintiffs argued that there were *bona fide* serious issues to be tried on the basis that: (i) it was unfair to impose the retirement age of 55 as the 1st plaintiff was already 58 years of age; (ii) it was an implied term of employment that the 1st plaintiff would remain as managing director as long as he was willing and able to do so up to the maximum age of 70 years; *i*

(iii) there was no provision in the memorandum and articles of association of the company ('M&A') nor any statutory provision stating that the retirement age of executive directors was 55 years; (iv) the 1st plaintiff served the company for 32 years and as such exceeded the fixed term of five years tenure in office of a managing director under art. 90 of the M&A; and (iv) that the plaintiffs were not bound by any new terms and conditions of employment unilaterally imposed by the defendants.

The defendants argued that: (i) the plaintiffs' writ did not disclose any cause of action; (ii) the 2nd plaintiff should not be a party to the proceedings; (iii) the 1st plaintiff could not go on as managing director until the age of 70 as his appointment was made under art. 90 of the M&A; and (v) that damages would be an adequate remedy.

Held:

[1] The writ in this instance was indorsed with a concise statement of the nature of the claim made or the relief or remedy sought as required under O. 6 r. 2(1)(a) of the Rules of the High Court 1980. Also, the plaintiffs had subsequently filed a full and comprehensive statement of claim that was duly served on the defendants. In the circumstances, the question of the plaintiffs' cause of action was a non-issue. Further, the plaintiffs' claim was substantially for declaratory reliefs. It is settled law that where declaratory reliefs are sought, no cause of action need be disclosed.

[2] The 2nd plaintiff owned 15,744 shares and an indirect shareholding of 42,851,746 shares in the company, besides being a director and an executive director. At all material times, his tenure in office had no restriction as to his retirement age. It was therefore necessary for the court to consider whether the 2nd plaintiff's tenure in office could be extended until such time as he shall choose to retire or until the age of 70 years in accordance with s. 129 of the Companies Act 1965. As the resolution sought to deprive him of his legitimate expectations as to his tenure in office, the 2nd plaintiff was a necessary party to these proceedings so that his rights might be heard and determined. Also any delayed action by the 2nd plaintiff might be construed as an acquiescence and laches might be relied upon by the defendants.

[3] There were *bona fide* serious questions to be tried and the practical reality was to maintain the status quo pending the hearing of the full suit. If the status quo was not maintained, the 1st plaintiff would lose his position as managing director and his success, if any, in the full suit would render the decision of the court nugatory or academic. It would be practically unrealistic for him to continue as managing director after the lapse of time expended in the final disposal of the full suit. Further, there was an

undertaking by the defendants as to damages in order to sustain the injunction and therefore preserve the status quo. Thus, justice of the case lay in the granting and extension of the interlocutory injunction.

[4] To retire the 1st plaintiff at this juncture would not only be a "great blow" but also a loss of self-esteem and face. He would suffer mental agony, humiliation, distress and irreparable injury or suffering. Being non-pecuniary losses, damages would not be an adequate remedy.

[5] At all material times, the plaintiffs and the defendants had proceeded on the basis that there was no restriction or compulsory retirement age for the 1st plaintiff. It would now be unjust and unfair for the defendants to resile from this position and attempt to impose a new obligation on the 1st plaintiff to retire at 55 when there was no such obligation in the past.

[Injunction to continue until full hearing and disposal of suit.]

Case(s) referred to:

American Cyanamid Co v. Ethicon Ltd [1975] AC 396 ***(refd)***

Caxton (Kelang) Sdn Bhd v. Susan Joan Labrooy & Anor [1988] 2 MLJ 604 ***(refd)***

Interkol (M) Sdn Bhd v. Bandar Utama City Promenade Sdn Bhd & Anor [1999] 5 CLJ 376 ***(dist)***

Keet Gerald Francis Noel John v. Mohd Noor Abdullah [1995] 1 CLJ 293 ***(refd)***

Lim Chong Construction Co Sdn Bhd v. Silam Quarry Sdn Bhd [1990] 1 CLJ 1158 ***(refd)***

Tan Sri Haji Othman Saat v. Mohamed Ismail [1982] 2 MLJ 177 ***(refd)***

Tun Datu Haji Mustapha Datu Harun v. Tun Datuk Haji Mohamed Adnan Robert Yang Di-Pertua Negeri Sabah & Datuk Joseph Pairin Kitingan [1986] 2 MLJ 391 ***(refd)***

United Malayan Banking Corporation Berhad v. Palm & Vegetables Oil (M) Sdn Bhd [1983] 1 MLJ 206 ***(dist)***

Utusan Melayu (Malaysia) Berhad v. Chan Tse Yuen [1989] 1 MLJ 185 ***(refd)***

Legislation referred to:

Companies Act 1965, s. 129

Government Proceedings Act 1956, s. 29(1), (2)

Rules of the High Court 1980, O. 6 r. 2(1)(a)

Specific Relief Act 1950, s. 41

For the plaintiffs - Dato' V Sivaparanjothi (Manjit Singh & Ashok Vijay with him); M/s V Siva & Partners

For the defendants - Dato' Dr Cyrus Das (Romesh Abraham & Rajesh Jethi with him); M/s Shook Lin & Bok

Reported by Usha Thiagarajah

a

JUDGMENT

Low Hop Bing J:

On 20 May 1999, I granted an *ex parte* order in terms of the plaintiffs' application in encl. 3 for, *inter alia*, an injunction restraining the defendants b by themselves, through a subsidiary company, associate company or a company under the direct or indirect control of the defendants or their officers, directors, agents, servants, solicitors, managers, receivers and managers whether appointed by court or otherwise, from interfering with or restraining the 1st and 2nd plaintiffs from serving and effectively carrying out their responsibilities as the c managing director and executive director respectively, of the 5th defendant Kian Joo Can Factory Bhd. Enclosure 3 is now fixed for hearing *inter partes*, in which the plaintiffs are seeking an order that the said *ex parte* injunction be extended until the full trial of this suit is adjudicated and disposed of.

d ***Facts Of The Case***

From the various affidavits filed for the purposes of this application for *inter partes* interlocutory injunction, the facts may be narrated in this way. The 5th defendant was incorporated on 18 March 1958 and became a public company on 10 September 1984. The 1st, 2nd, 3rd and 4th defendants and e the 1st and 2nd plaintiffs are all directors of the 5th defendant. The 2nd, 3rd and 4th defendants and the 1st and 2nd plaintiffs are siblings who under the leadership of the 1st plaintiff have collectively participated in the success not only of the original family business but also subsequently in the public company.

f The 1st defendant does not hold any share in the 5th defendant.

The 2nd defendant owns 50,470 shares in the 5th defendant and has an indirect shareholding of 42,741,276 shares in the 5th defendant.

The 3rd defendant has an indirect shareholding of 42,741,276 shares in the g 5th defendant.

The 4th defendant owns 42,605 shares and an indirect shareholding of 1,453 shares in the 5th defendant.

The 1st plaintiff owns 130,309 shares and an indirect shareholding of h 42,741,276 shares in the 5th defendant.

The 2nd plaintiff owns 15,744 shares and an indirect shareholding of 42,851,746 shares.

i

The 1st plaintiff was appointed as a director of the 5th defendant on 30 October 1966. He was appointed as managing director on 18 December 1967. He has so far served the 5th defendant as managing director continuously for almost 32 years. By a resolution dated 31 March 1999 ("the impugned resolution"), the board of directors resolved that the retirement age for executive directors is 55 years. Pursuant to the impugned resolution, the 1st defendant by a letter dated 26 April 1999 requested the 1st plaintiff to retire on or before 31 May 1999.

Apparently, there was a family dispute which started in 1991 pertaining to the management of the 5th defendant. The dispute developed further with greater dimension and intensity from 1994 onwards, culminating in the filing of several court cases e.g. a winding-up petition, libel action and so forth, not only in Malaysia but also in Singapore.

The defendants have initiated and launched a series of attempts to remove the 1st and 2nd plaintiffs as managing director and executive director respectively, of the 5th defendant, and other companies in the same group, as illustrated in the following events:

1. On 13 January 1997, the 1st defendant called for an urgent board of directors' meeting to be held on 17 January 1997 to discuss measures to be taken against the 1st and 2nd plaintiffs. Prior to the board meeting, the 1st defendant had asked the 1st plaintiff to retire from the position of managing director, or face removal.

2. On 20 January 1997, the 1st and the 2nd defendants called for an extraordinary general meeting ("EGM") primarily to remove the 1st plaintiff, the 2nd plaintiff and another as directors from the board of directors of the Kian Joo Can Factory [S] Pte Ltd ("the Singapore company"). This EGM was cancelled allegedly because the requisition for the EGM was irregular and defective.

3. On 13 November 1997 the 1st and 2nd defendants called for an EGM solely to remove the 1st plaintiff's executive powers and his position as a director of the Singapore company. No resolution was passed as allegedly a majority of the shareholders felt that there was no legal or factual basis.

4. The 2nd defendant had together with the Human Resources Department of the 5th defendant formulated a remuneration package for senior executives, managers and executive directors to retire at the age of 55 years. The 1st plaintiff was included in this package. The 2nd defendant raised the issue of the remuneration package in the board of directors

meeting held on 16 July 1997. There was no consensus and the board deferred this issue.

5. On 26 September 1997, the issue of retirement age was again raised in the board of directors meeting, which further deferred the issue.

6. On 12 November 1997, 1st defendant requested, *inter alia*, the plaintiffs to submit in writing their respective views concerning the mandatory retirement age of 55. Both the plaintiffs did so, and stated that this mandatory retirement age of 55 should apply to employees of the 5th defendant, but not the plaintiffs who were the founder members of the 5th defendant and have a controlling stake, and who should continue to work for as long as they are willing and able.

7. On 30 March 1998, the board of directors resolved that the retirement age for employees of executive level be set at the age of 55 years, but no decision was made in respect of the plaintiffs.

8. On 24 September 1998, the board of directors instructed Mr. See Tiau Kee, the 3rd defendant, to check with a consultant of human resources for materials concerning the retirement age of executive directors, but Mr. See Tiau Kee never reported his findings to the board of directors.

9. On 31 March 1999, a comprehensive package remuneration for full time executive directors was presented for resolution. When a vote was taken by the board of directors, the 1st, 2nd, 3rd and 4th defendants voted in favour of the retirement age of 55 for executive directors but the plaintiffs voted against it.

10. Before the minutes of the meeting dated 31 March 1999 were approved and confirmed by the board of directors, the 1st defendant by letter dated 26 April 1999 requested the 1st plaintiff to retire as managing director of the 5th defendant effective from 31 May 1999.

From the aforesaid sequence of events, it is clear that the defendants' conduct and action constituted unrelenting attempts to oust the plaintiffs from their respective positions in the 5th defendant's group of companies in Malaysia and Singapore.

Plaintiffs' Contention

Dato' V. Sivaparanjothi, the learned lead counsel for the plaintiffs, submitted that:

1. The resolution dated 31 March 1999 and the letter dated 26 April 1999 ("the impugned resolution and letter") were null and void, being tainted with ulterior motive, bad faith and abuse of power.

2. It is an implied term of employment that the 1st plaintiff would remain as a managing director as long as he was willing and able to do so up to the maximum age of 70 years.

3. There is no provision in the memorandum and articles of association of the 5th defendant nor any statutory provision stating that the retirement age of executive directors ought to be 55 years.

4. In fact article 90 of the memorandum and articles of association of the 5th defendant provides that if the managing director is appointed for a fixed term, that term shall not exceed 5 years. In this instance, the 1st plaintiff has not only exceeded 5 years but in fact has served the 5th defendant for 32 years so far.

5. The 1st plaintiff has not agreed to and indeed was not bound by any new terms and conditions of employment unilaterally imposed by the defendants.

6. It would be highly unconscionable, inequitable, unfair and unjust to impose the retirement age of 55 especially when the 1st plaintiff has already attained the age of 58 years now. The defendants are therefore **estopped** from imposing the retirement age of 55 upon the 1st plaintiff.

7. To ask the 1st plaintiff, who has dedicated to the 5th defendant 32 years of loyal service, to retire at the age of 55, would cause him irreparable suffering, mental agony and humiliation.

8. The impugned resolution and letter cannot take retrospective effect. The 1st plaintiff has acquired an accrued, vested and substantive right.

7. There are serious and *bona fide* issues to be tried. The balance of convenience lies in favour of the plaintiff and the *status quo* ought to be preserved pending the hearing of this suit.

Defendants' Submission

The following issues were raised by learned lead counsel Dato' Dr Cyrus Das for the defendants:

1. The plaintiffs' writ did not disclose a cause of action.;

2. The 2nd plaintiff should not be a party to these proceedings.

3. The issue of Human Resources Remuneration Package has been in store for some time.

4. The 1st plaintiffs appointment as managing director on 18 December 1967 was made pursuant to art. 90 and the 1st plaintiff could not go on as managing director until the age of 70.

5. The plaintiffs have not proved any *mala fide* on the part of the defendants.

6. There are no serious questions to be tried.

7. The balance of justice is in favour of the defendants.

8. Damages would be an adequate remedy.

Decisions Of The Court

Writ And Cause Of Action

Indorsement With Statement Of claim

O. 6 r. 2(1)(a) provides that before a writ is issued, it must be indorsed with a statement of claim or, if the statement of claim is not indorsed on the writ, with a concise statement of the nature of the claim made or the relief or remedy required in the action begun thereby.

In my view, where a statement of claim is not indorsed on a writ, O. 6 r. 2(1)(a) is sufficiently complied with if the writ is indorsed with a concise statement of the nature of the claim made or the relief or remedy required in the action begun thereby. The purpose of this indorsement is to inform the defendants of the nature of the suit and the reasons why legal actions are being taken against them. The writ in the instant case has stated the nature of the suit which provides sufficient and precise information. The respective capacities of the plaintiffs and the defendants have been stated in the writ. The subject matter in question revolves around the validity or otherwise of the impugned resolution and finally the writ has been indorsed with a concise statement of the nature of the claim made or the relief or remedy sought.

In any event, the plaintiffs have subsequently filed a full and comprehensive statement of claim which has been duly served on the defendants.

In the circumstances, I am of the view that the question of the plaintiffs' cause of action is indeed a non-issue.

Declaratory Relief

The plaintiffs' claim is substantially for declaratory reliefs. In my view, it is settled law that where declaratory reliefs are sought, no cause of action need be disclosed. By way of illustration, in *Tan Sri Haji Othman Saat v. Mohamed Bin Ismail* [1982] 2 MLJ 177, the Federal Court held, *inter alia*, that it is

not necessary for a plaintiff who seeks relief by way of declaratory judgment to show that he has a present cause of action, so long as he is somebody with such an interest in the subject matter of the action as to justify his seeking relief.

Further, in *Caxton (Kelang) Sdn Bhd v. Susan Joan Labrooy & Anor* [1988] 2 MLJ 604; Siti Norma Yaacob, J (now JCA), on the question of declaratory order, observed as follows:

> P.W. Young in his book on *Declaratory Orders,* 2nd Ed., defines a declaratory judgment as one that does not involve a cause of action in the usual sense and that six factors must be present before there can be a declaratory order. These are:
>
> (1) There must exist a controversy between the parties.
>
> (2) The proceedings must involve a "right".
>
> (3) The proceedings must be brought by a person who has a proper or tangible interest in obtaining the order, which is usually referred to as "standing" or *"locus standi"*.
>
> (4) The controversy must be subject to the court's jurisdiction.
>
> (5) The defendant must be a person having a proper or tangible interest in opposing the plaintiff's claims.
>
> (6) The issue must be ripe, *ie*, it must not be of academic interest, hypothetical or one whose resolution would be of no practical utility.

In addition to the above authorities, the relevant portion of s. 41, Specific Relief Act 1950 (Act 137) provides that any person entitled to any legal character or to any right as to any property, may institute a suit against any person denying, or interested to deny, his title to the character or right, and the court may in its discretion make therein a declaration that he is so entitled, and the plaintiff need not in that suit ask for any further relief.

On the other hand *Lim Chong Construction Co Sdn Bhd v. Silam Quarry Sdn Bhd* [1990] 1 CLJ 1158; [1990] 2 MLJ 423, which is relied upon by the defendants may be distinguished on the ground that the writ in question did not seek any declaratory order or relief, but a final injunctive relief. Hence it is therefore unlike the writ before me, in which the claim is for declaratory relief.

In *Utusan Melayu (Malaysia) Berhad v. Chan Tse Yuen* [1989] 1 MLJ 185, there was also no claim for declaratory relief and the plaintiff's action by originating summons contained prayers solely for injunctive relief. Hence, the Supreme Court allowed the appeal and set aside the interim injunction granted by the High Court.

In *Tun Datu Haji Mustapha Bin Datu Harun v. Tun Datuk Haji Mohamed Adnan Robert Yang Di-Pertua Negeri Sabah & Datuk Joseph Pairin Kitingan* [1986] 2 MLJ 391, there was also no claim for declaratory relief. It was further emphasised by Abu Mansor, J (now FCJ) that interim injunction should be refused as it was outside the pleadings.

United Malayan Banking Corporation Berhad v. Palm & Vegetables Oils (M) Sdn Bhd [1983] 1 MLJ 206 cited in support of the defendants' case concerned an application for summary judgment and is not an authority on interim injunction and so it is easily distinguishable.

Second Plaintiff A Necessary Party

As stated above, the 2nd plaintiff owns 15,744 shares and an indirect shareholding of 42,851,746 shares in the 5th defendant, besides being a director and an executive director. At all material times, his tenure of office had no restriction as to his retirement age. It is therefore necessary for the court to consider whether the 2nd plaintiff's tenure in office could be extended until such time as he shall choose to retire or until the age of 70 years in accordance with s. 129 of the Companies Act 1965. The restriction contained in the impugned resolution is to deprive him of the legitimate expectations. Therefore, it is my considered opinion that the 2nd plaintiff is a necessary party to these proceedings so that the question touching his rights may be heard and determined.

It is also necessary for the 2nd plaintiff to take the present action and not at a later stage, as any delayed action by him may well be construed as an acquiescence and hence laches may be relied upon by the defendants.

Functions Of A Judge In Interlocutory Injunction

The functions of a judge hearing an application for interlocutory injunction had been enunciated by the House of Lords in *American Cyanamid Co v. Ethicon Ltd* [1975] AC 396, and recently restated by the Court of Appeal in *Keet Gerald Francis Noel John v. Mohd Noor Bin Abdullah* [1995] 1 CLJ 293; [1995] 1 MLJ 193, at 206 and 207, as follows:

(a) He should ask himself whether the totality of the facts presented before him disclosed a *bona fide* serious issue to be tried. If he finds that no serious question is disclosed, the relief should be refused. If, however, he finds that there are serious questions to be tried, he should move on to the next step of his inquiry;

(b) Having found that an issue has been disclosed that requires further investigation, he must consider where the justice of the case lies. He must take into account all relevant matters, including the practical realities of

the case before him and weigh the harm the injunction would produce by the grant, against the harm that would result from its refusal; and

(c) The judge must have in the forefront of his mind that the remedy that he is asked to administer is discretionary, intended to produce a just result between the date of the application and the trial proper and to maintain the *status quo*.

Serious Questions To Be Tried

On the affidavit filed herein, I am of the view that there are the following *bona fide* serious questions to be tried.

(a) Could the defendants remove the 1st plaintiff as managing director at the age of 55 when the 1st plaintiff had already attained the age of 58 or were the defendants estopped from doing so?

(b) Could the defendants invoke art. 90 of the memorandum and articles of association of the 5th defendant to remove the 1st plaintiff as managing director when the board of directors resolution dated 18 December 1967 appointing the 1st plaintiff as managing director did not state that the appointment was made pursuant to the said article, nor was it stated to be for segments of five years, when the 1st plaintiff has served a total period of 32 years continuously?

(c) Was the impugned resolution tainted with *mala fide*, an abuse of power and therefore null and void?

(d) Is the appointment of the 1st plaintiff as managing director governed by s. 129 of the Companies Act 1965?

(e) Finally, even assuming for a moment that the said art. 90 applies to impose the segment of five years on the 1st plaintiff as managing director, could the defendants remove the 1st plaintiff as managing director when the final segment of five years would only expire on 18 December 2001, having been appointed on 18 December 1967?

Justice Of The Case

In the light of the plethora of *bona fide* serious questions to be tried, the practical reality is to maintain the *status quo* pending the hearing of the full suit herein. If the *status quo* is not maintained, the 1st plaintiff would lose his position as managing director and his success, if any, in the full suit would eventually render the decision of the court nugatory or academic as it would be practically unrealistic for him to continue as managing director after the lapse of time which would have to be expended in the final disposal of the

full suit herein. There was further an undertaking by the plaintiffs as to damages in order to sustain the injunction and therefore to preserve the *status quo*. I am therefore of the view that the justice of the case lies in the granting and extension of the interlocutory injunction.

Discretionary Remedy

In *Interkol (M) Sdn Bhd v. Bandar Utama City Promenade Sdn Bhd & Anor* [1999] 5 CLJ 376, on which the defendants relied, the plaintiff sought an interim injunction to restrain the bailiff of the Sessions Court in the distress suit from proceeding with the distress proceedings. I held, *inter alia*, that the bailiff of the Sessions Court is a public officer under the Subordinate Courts Act 1948 and therefore s. 29(1) and (2) of the Government Proceedings Act 1956 provided an absolute bar to the application for an injunction. I also held that another factor that weighs heavily against the injunction there was that damages would be an adequate remedy and the defendants being the owners of the demised premises are in a position to satisfy the remedy of damages in the event the plaintiff succeeds in the full trial in due course. The facts in that case plainly and obviously touch and concern the arrears of rental occasioned by the plaintiff resulting in the execution of the distress suit by the bailiff of the Sessions Court. Those facts are vastly different from the facts in the present case.

As alluded to above, the 1st plaintiff in the instant case was appointed as managing director of the 5th defendant in 18 December 1967.

After the demise of the father, it was the responsibility of the 1st plaintiff to take over the leadership of the group of companies in the family. The 1st plaintiff and his siblings including the 2nd, 3rd and 4th defendants held positions of authority in the family business, which was then listed in the KLSE. His continuous 32 years of service in the 5th defendant speaks volumes.

He is it, mentally sound, and able and willing to manage the 5th defendant and uphold the family business that was started by his late father. I agree with the learned lead counsel for the plaintiffs that to retire him at this juncture will not only be a "great blow" but also a loss of self esteem and face and that he would suffer mental agony, humiliation, distress and irreparable injury or suffering. It would in my view be exceedingly difficult if not virtually impossible for these items to be quantified and compensated by damages, as they are items of non-pecuniary losses.

Conclusion

At all material times, all the plaintiffs and the defendants have proceeded on the basis that there was no restriction or compulsory retirement age for the 1st plaintiff. In my view, it would now be unjust and unfair for the defendants

to resile from this position and attempt to impose a new obligation on the 1st plaintiff to retire at 55 when there was never such an obligation in the past. In the light of all the grounds which I have adumberated above, I hold that the injunction should continue until the full hearing and disposal of the suit herein. I therefore make an order in terms of the plaintiffs' *inter partes* application in encl. (3) and further direct that an early hearing date be fixed for the trial of the suit herein.